

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-4765

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JORGE GONZALEZ-JAIMES,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Statesville. Richard L. Voorhees, District Judge. (CR-03-4)

Submitted: March 25, 2004

Decided: March 30, 2004

Before TRAXLER, KING, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

James S. Weidner, Jr., LAW OFFICE OF JAMES S. WEIDNER, JR., Charlotte, North Carolina, for Appellant. Gretchen C. F. Shappert, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Jorge Gonzalez-Jaimes pled guilty to conspiracy to possess with intent to distribute five or more kilograms of cocaine and fifty grams of cocaine base, 21 U.S.C. § 846 (2000) (Count 1), two counts of possession of cocaine with intent to distribute, 21 U.S.C.A. § 841 (West 1999 & Supp. 2003) (Counts 3 & 10), and one count of aiding and abetting the possession of cocaine with intent to distribute, 21 U.S.C.A. § 841, 18 U.S.C. § 2 (2000) (Count 8). The district court departed downward based on Gonzalez-Jaimes' substantial assistance and imposed a sentence of 240 months imprisonment. Gonzalez-Jaimes' attorney has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), raising as a potentially meritorious issue the district court's failure to impose a sentence of less than 240 months, but asserting that, in his view, there are no meritorious issues for appeal. Gonzalez-Jaimes has been informed of his right to file a pro se supplemental brief but has not filed a brief. We affirm the conviction and sentence.

A defendant may not appeal the extent of a downward departure unless the departure decision resulted in a sentence imposed in violation of law or resulted in an incorrect application of the sentencing guidelines. United States v. Hill, 70 F.3d 321, 324-25 (4th Cir. 1995). We discern no such error in the district court's departure in this case.

Pursuant to Anders, we have reviewed the record for reversible error and found none. We therefore affirm the conviction and sentence. This court requires that counsel inform his client, in writing, of his right to petition the Supreme Court of the United States for further review. If the client requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on the client. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED